

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,

v.

TERENCE L. WILLIAMS, JR.,

Defendant.

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ID No. 1904002113

Date Submitted: October 29, 2019

Date Decided: November 18, 2019

ORDER

Upon consideration of Defendant's Motion to Modify ("Motion"), Superior Court Criminal Rule 35, statutory and decisional law, and the record in this case, **IT APPEARS THAT:**

1. On September 9, 2019, Defendant pled guilty to Driving Under the Influence ("DUI") Fourth Offense and Reckless Endangerment of a Child.¹ Defendant was immediately sentenced to 6 months of unsuspended Level 5 time followed by 1 year at Level 3.²

2. On October 29, 2019, Defendant filed his Motion, asking the Court to modify his sentence to Level 4 (Home Confinement), followed by decreasing levels

¹ D.I. 17, 18.

² D.I. 18. He was sentenced as follows: for DUI Fourth Offense, 5 years at Level 5 with credit for 4 days, suspended after 6 months, for 1 year at Level 3; and for Endangering the Welfare of a Child, 1 year at Level 5, suspended for 1 year at Level 3. Probation runs concurrent.

of probation.³ In support of his Motion, Defendant cites: (1) his good behavior; (2) his acceptance of responsibility; (3) his stressful life lead to his crimes; (4) his ongoing mental health treatment; and (5) his five-year post-incarceration plan.⁴

3. Pursuant to Superior Court Criminal Rule 35(b), the Court may reduce a sentence of imprisonment on a motion made within 90 days after the sentence is imposed.⁵ When a motion for reduction of sentence is filed within 90 days of sentencing, the Court has broad discretion to decide whether to alter its judgment.⁶ The intent of Rule 35(b) is to “give a sentencing judge a second chance to consider whether the initial sentence is appropriate.”⁷

4. Defendant’s Motion is timely but completing programs, accepting responsibility, having post-incarceration plans,⁸ and having good behavior are not grounds for sentence modification.⁹

³ D.I. 21.

⁴ *Id.*

⁵ Super. Ct. Crim. R. 35(b).

⁶ *Petty v. State*, 2018 WL 5249999 (Del. Oct. 19, 2018) (citing *Hewett v. State*, 2014 WL 5020251, at *1 (Del. Oct. 7, 2014); *State v. White*, 2019 WL 2142053, at *3 (Del. Super. May 15, 2019).

⁷ *State v. Thomas*, 2019 WL 5704287, at *3 (Del. Super. Oct. 31, 2019) (quoting *State v. Reed*, 2014 WL 7148921, at *2 (Del. Super. Dec. 16, 2014)).

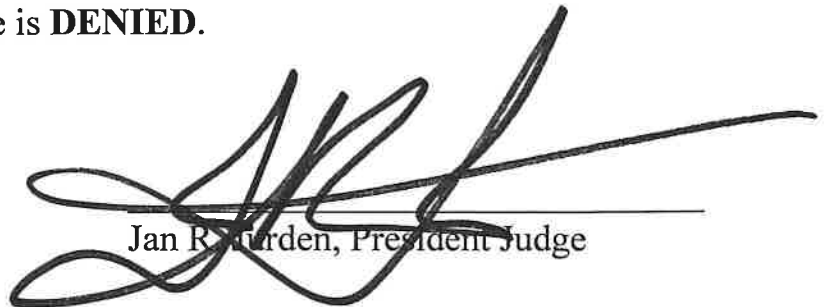
⁸ While Defendant’s steps towards planning for life after incarceration are commendable, those steps are not grounds for modification. *See Selby v. State*, 2013 WL 210506, at *1 (Del. Jan. 17, 2013) (noting defendant’s prior Rule 35 motion was denied even though he cited having plans following release); *see also State v. Johnson*, 2015 WL 3547446, (Del. Super. June 8, 2015) (denying defendant’s sentence modification for rehabilitative efforts and “life plans for when he is released” and holding that such claims are properly addressed under 11 *Del. C.* § 4217.).

⁹ *State v. Weidow*, 2015 WL 1142583, at *2 (Del. Super. Mar. 11, 2015) (remorse and good behavior not a basis); *State v. Liket*, 2002 WL 31133101, at *2 (Del. Super. Sept. 25, 2002) (exemplary conduct or successful rehabilitation during incarceration does not qualify as “extraordinary circumstances” and instead, should be directed to the parole board).

5. The sentence is reasonable and appropriate for all the reasons stated at the time of sentencing. No additional information has been provided to the Court that would warrant a reduction or modification of this sentence.

Accordingly, for the foregoing reasons, this Court finds that Defendant has not demonstrated cause for the relief sought.

NOW, THEREFORE, IT IS HEREBY ORDERED that Defendant's Motion for Modification of Sentence is **DENIED**.



Jan R. Gorden, President Judge

Original to Prothonotary

cc: Terence L. Williams Jr., *pro se* (SBI# 00733106)
Matthew F. Hicks, DAG